



STATE OF HAWAII
DEPARTMENT OF HEALTH
CHILD AND ADOLESCENT MENTAL HEALTH DIVISION
3627 KILAUEA AVENUE, ROOM 101
HONOLULU, HAWAII 96816

In reply, please refer to:
File:

December 23, 2002

TO: The Honorable Aaron Fujioka
State Procurement Office

FROM: Loretta J. Fuddy, A.C.S.W., M.P.H.
Acting Director of Health

SUBJECT: Crisis Purchase of Services

Pursuant to Chapter 3-147, Hawaii Administrative Rules, the Department of Health (DOH) is requesting approval for crisis purchase of services to provide court ordered secure detention, treatment, and habilitation for a minor committed to the DOH.

The determination to use the crisis purchase of service method of procurement is based on the unique circumstances of this case and the current situation that has arisen in the past 72 hours. The required services arising from this crisis situation cannot be addressed through alternative procurement methods or by any other purchasing agency providing health and human services.

Background

The minor is charged with the offenses of murder in the second degree and two counts of sexual assault in the first degree. The victim in this case was a six-year old female child. The victim was brutally murdered and sexually assaulted on September 27, 2001.

An autopsy showed the child died as a result of severe craniocerebral injuries to the head caused by blunt force trauma. The child had extensive skull fractures with cortical contusions of the brain as well as subdural and subarachnoid hemorrhages of the brain. There were stab wounds in the neck, chest, abdomen, and forehead. There were numerous abrasions and contusions all over the body (Decision and Order Suspending Proceeding, pages 3-4).

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The minor has been detained in three (Hawaii State Detention Facility, The Queen's Medical Center, and Kahi Mohala) secure facilities in the state and all three facilities determined that they were unable to manage this minor. A description of the minor's severe behavior and resulting injuries inflicted on facility staff is summarized in the Decision and Order Suspending Proceeding, on pages 10-11, and 15. In addition, the minor was transferred to Benchmark Behavioral Health Systems for an extensive 60 day evaluation. Benchmark requested that the minor be removed from their program as they were not able to treat him safely (Decision and Order Suspending Proceeding, page 14). Minor was returned to Hawaii on July 30, 2002 and transported to Kahi Mohala.

On October 4, 2002, Kahi Mohala notified the DOH that the minor must be removed from their facility after he "went into a rage and attacked staff" using a metal grate as a weapon. Several staff were injured (Decision and Order Suspending Proceeding, page 15).

Legal Issues

The court has found that the minor is **not fit** to proceed with the Family Court waiver of jurisdiction hearing, and suspended the waiver hearing and ordered the minor to remain in secure detention until further order (Decision and Order Suspending Proceeding, pages 75-76).

In a subsequent order, Order Restricting Placement at Hale Ho'omalua, the court determined that placement in the Hawaii State Detention Facility (Hale Ho'omalua) is not in the minor's best interest and would be violative of the Minor's substantive and procedural due process rights (page 2). The court found that the least restrictive and appropriate alternative in this case is the Hawaii State Hospital (page 3).

The court orders document the complexity of this case and the lack of legal precedent in Hawaii for the many issues identified in this case.

Current Crisis Situation

On or about December 4, 2002, the minor was transported for treatment and habilitation to a secure facility in Oklahoma. On December 12, 2002, the authorities of the State of Oklahoma notified the State of Hawaii that the minor shall be immediately transported back to Hawaii. All efforts on behalf of the DOH to seek additional time to prepare for the minor's imminent return to Hawaii were unsuccessful, including the efforts of Hawaii Attorney General, Mr. Mark Bennett. Negotiations with the Queen's Medical Center (QMC) and Kahi Mohala for the provision of services in this case were not successful, and no other secure treatment facility on the mainland would admit this minor.

The minor arrived in Honolulu at approximately 2:00 p.m. on December 19, 2002, and was immediately transported to Hawaii State Hospital (HSH) for secure detention, treatment, and habilitation. The HSH has not provided residential

treatment services to minors for several years; thus, the HSH is not staffed for the immediate provision of services for this minor. Therefore, **the DOH procured services required to ensure the health and safety of this minor, compliance with the court order, compliance with the U.S. Department of Justice Settlement Agreement¹, Civil Number 91-00137 DAE, and public safety.**

Due to the emergent situation and the need for public safety, the DOH did not have time to solicit bids from vendors with the exception of professional nursing services. The CAMHD has a list of professional nursing agencies that were contacted and only one agency is capable of providing services as the current nurse's strike has left other agencies with no capacity to provide services. In light of the aforementioned, it is the determination of the DOH to procure the required services from providers who have demonstrated competence and reliability to provide these services with the DOH, and who are willing and capable to work with this minor.

The services required in this case range from security to a full complement of professionals who preferably have the specialized skills and capability to adequately address the complex programmatic issues of this case. The clinical issues includes the administration of "heavy" psychotropic medication and restraints (non mechanical and mechanical). The staffing and range of services either procured or to be procured under this request, are deemed necessary by the minor's treatment team (i.e., care coordinator, attending psychiatrist, Judiciary, DOE, etc.) and consistent with all related court orders.

Provider/Vendor	Service Description	Rate	Justification for Selection
B.C.P. (Nursefinders)	Professional Nursing (as needed).	\$46.75 (RN) \$30.00 (LPN) \$21.50 (PMA)	Only nursing agency available. Fees same as charged to HSH secured under bid.
Kokua Villa	Staffing (2-3 FTE/Shift) 24 hours, 7 days	\$18.00 – \$74.00	Recommended by DDD, and has staff with specialized training for this population. Only provider available to provide services at this time. Rates are based on HI Medicaid waiver rates.
Star Protection ²	Security (1FTE/Shift) 24 hours, 7 days	\$15.50/ hour	Current vendor for Hawaii State Hospital. Staff trained. Fee same as charged to HSH secured under competitive bid.
BCRC	Intensive Behavioral Management (as needed)	\$150/ hour or negotiated case rate.	Professionally trained staff in intensive behavioral management. To be used only if necessary as HSH will provide for now.

Currently, the minor has been in secure detention at the Hawaii State Hospital since his return to Hawaii on December 19, 2002. The DOH is presently assessing the situation and making every effort at planning for the immediate and future needs of this minor. However, the minor's severe behavior is a variable that contributes to the inability of the DOH to stabilize programming for the minor.

¹ The DOJ Settlement Agreement requires the State of Hawaii to maintain specific staffing ratios and follow agreed upon standards.


² The DOH recognizes that procurement of this vendor falls under Chapter 103D, HRS.

Based on the aforementioned crisis situation, the DOH respectfully requests your approval to use the crisis method of procurement for the providers/vendors identified in this request for an initial period of six months.



LORETTA J. FUDDY, A.C.S.W., M.P.H.

☒ APPROVED ☐ DISAPPROVED


AARON FUJIOKA

12/27/02
Date